

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

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**RACHELLE DAVIS,**

Plaintiff,

v.

**AMERICAN AIRLINES, INC.,**

*et al.,*

Defendants.

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Civil Action No. 3:19-cv-00044-MOC-DSC

**DEFENDANTS' MOTION TO DISMISS FOR LACK OF  
SUBJECT MATTER JURISDICTION AND FAILURE TO STATE A CLAIM**

Defendants American Airlines, Inc. (“American Airlines”), Mark Moscicki, Terry Dix, and Michelle Magee, (hereinafter collectively referred to as, “Defendants”), by and through their undersigned counsel and pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, respectfully move the Court to dismiss the Plaintiff’s Complaint. In support of their Motion and as more fully explained in the accompanying Memorandum of Law in Support, Defendants respectfully state as follows:

1. The current deadline for Defendants to respond to the Complaint is March 4, 2019.
2. In lieu of an Answer, Defendants move to dismiss the Complaint for lack of subject matter jurisdiction, failure to timely exhaust administrative remedies, and failure to state a claim on which relief may be granted.
3. The Plaintiff’s claims constitute a minor dispute under the Railway Labor Act (“RLA”), over which the Court lacks subject matter jurisdiction.

4. The Plaintiff failed to file her EEOC charge within the prescribed 180 days after the alleged unlawful employment practice, and accordingly failed to exhaust her administrative remedies.
5. The Plaintiff's Complaint has failed to state facts sufficient to maintain her claims of discrimination and retaliation, and pursuant to Fed. R. Civ. P. 12(b)(6), should be dismissed.
6. The proposed Order attached hereto as Exhibit 4 will be contemporaneously submitted to Chambers electronically using the CyberClerk feature of CM/ECF.

WHEREFORE, Defendants respectfully request that this Court dismiss the Plaintiff's Complaint with prejudice.

Dated this 4th day of March, 2019.

Respectfully submitted,

By: /s/ Crystal M. Trotter  
Crystal M. Trotter  
NC State Bar No. 40200  
Daniel E. Farrington<sup>1</sup>  
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**ATTORNEYS FOR DEFENDANTS  
AMERICAN AIRLINES, INC., MARK  
MOSCICKI, TERRY DIX, and  
MICHELLE MAGEE**

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<sup>1</sup> Mr. Farrington will be moving for admission *pro hac vice*.

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 4, 2019, I electronically filed the foregoing **DEFENDANTS' MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION AND FAILURE TO STATE A CLAIM**, including Exhibit 4 thereto, with the Clerk of Court using the CM/ECF system, which will automatically send notice of such filing to all persons who have appeared in this matter, and I have placed a copy of the same via U.S. Mail, Certified to the Plaintiff at the following address:

Ms. Rachelle Davis  
6600 Antrim Court  
Charlotte, NC 28217

Dated this 4th day of March, 2019.

Respectfully submitted,

By: /s/ Crystal M. Trotter  
Crystal M. Trotter  
**FISHER PHILLIPS LLP**